

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

RONALD LAWRENCE,

Appellant

v.

TREASURER OF THE STATE OF MISSOURI - CUSTODIAN OF THE 2ND INJURY
FUND.

Respondent

DOCKET NUMBER WD77998

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: July 28, 2015

Appeal From:

LABOR AND INDUSTRIAL RELATIONS

Appellate Judges:

Special Division

James Edward Welsh, P.J., Anthony Rex Gabbert, J., and Robert M. Clayton, III, Sp. J.

Attorneys:

David Whipple, Independence, MO

Counsel for Appellant

Attorneys:

Kimberley Fournier, Kansas City, MO

Counsel for Respondent

Cara Harris, Kansas City, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**RONALD LAWRENCE, Appellant, v. TREASURER OF THE STATE OF
MISSOURI - CUSTODIAN OF THE 2ND INJURY FUND, Respondent**

WD77998

Labor and Industrial Relations

Before Special Division Judges: Welsh, P.J., Gabbert, J., and Clayton, Sp. J.

Ronald Lawrence appeals the Labor and Industrial Relations Commission's decision denying his claim for permanent *total* disability benefits from Missouri's Second Injury Fund. Following a hearing on his claim, an Administrative Law Judge (ALJ) awarded Lawrence permanent *partial* disability benefits from the Fund. On appeal, the Commission affirmed and adopted the ALJ's award with modifications. The Commission found that, although the evidence showed that Lawrence is permanently and totally disabled, he failed to prove that the Fund is liable for permanent *total* disability benefits because "important fact questions" remained unanswered as to his need to lie down during the day, whether there is a psychiatric component to his pain, and discrepancies between the experts' assessments of his preexisting disabilities.

Reversed and remanded.

Special Division holds:

Viewing the award objectively and examining the evidence in the context of the whole record, the evidence showed that Lawrence met his burden under section 287.220, RSMo, of establishing that he is permanently and totally disabled due to a combination of the primary work injury and his preexisting disabilities and that the Fund, therefore, is liable for the preexisting portion of that disability. The Commission's decision to the contrary is unsupported by competent and substantial evidence and is against the overwhelming weight of the evidence. The Commission's decision that the Second Injury Fund is not liable for Lawrence's permanent total disability is reversed and remanded with instructions for the Commission to award Lawrence permanent total disability benefits against the Fund.

Opinion by James Edward Welsh, Presiding Judge

July 28, 2015

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